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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,217	11/18/2005	Masaomi Tajimi	RCK-40	2662
35969 Bayer Health C	7590 04/23/200 <b>are</b> LLC	EXAMINER		
400 Morgan La	ne	O'DELL, DAVID K		
West Haven, CT 06516			ART UNIT	PAPER NUMBER
			1625	
			MAIL DATE	DELIVERY MODE
			04/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/537,217	TAJIMI ET AL.		
Examiner	Art Unit		

The MAILUNG DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 31 Manch 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal, To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affdavit, or other evidence, which place are populated in compliance with 37 CFR 1.13.1 (c) 3 Request population in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13.1 (c) 3 Request population in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13.1 (c) 3 Request population of the period for reply express 2 months from the milling date of the final rejection.  □ The period for reply express on; (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statutory period for reply express the trans SIX MONTHS from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the IREPLETION See MeRP 7'06.0'76.  Estaminors of time may be obtained under 37 CFR 1.13(a) and the appropriate extensions for the statute of the file of the propriess of determining the period of extension and the corresponding amount of the fee. The appropriate extensions fee under 37 CFR 1.13(a) is calculated from: (1) the expression date of the shorthed statutory period for reply originally set in the intra Cities action, or 13 cm and you do can always a statute of the file after a file and feed of filing and feed within the mailing date of the filing the Notice of Appeal (37 CFR 4.137(a)).  NOTICE OF APPEAL  2. ■ The Notice of Appeal (37 CFR 4.137(a)), or any extension thereof (37 CFR 4.137 must be filed within two months of the date of filing a horize of the filing and	David	l K. O'Dell	1625					
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must interly file one of the following replies: (1) an amendment, affidaty, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) ☑ The period for reply expires <u>3</u> months from the mailing date of the final rejection.  b) ☐ The period for reply expires <u>3</u> months from the mailing date of the final rejection.  Examiner Note: If box it is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS from the mailing date of the final rejection.  Examiner Note: If box it is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRMA REJECTION. See WHEP 705 G/TO.  Extensions of sime may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee numbers been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee numbers of the third followed the period of the filed the filed replaced extension fee under 37 CFR 1.136(a). The obtained set was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137(a), to avoid dismissal of the appeal. Since a Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a).  If he Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a).  MEDIAN SET	The MAILING DATE of this communication appears or	the cover sheet with the d	correspondence add	ress				
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a)	1.  The reply was filed after a final rejection, but prior to or on the sa application, applicant must timely file one of the following replies application in condition for allowance; (2) a Notice of Appeal (wit for Continued Examination (RCE) in compliance with 37 CFR 1.	me day as filing a Notice of : (1) an amendment, affidavi h appeal fee) in compliance	Appeal. To avoid abar t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply received by the Office later than three months after the malling date of the final origication, or (2) as set forth in (b) above, if checked, Any reply received by the Office later than three months after the malling date of the final rejection, even if timely filled, may reduce any semed patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL.  □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filled within two months of the date of filling the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENOMENTS  3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filling a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (c) ☐ They raise and sizes of new matter (see NOTE below);  (d) ☐ They present additional claims without canceling a corresponding number of finally	<u></u>	inal rejection.						
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 11/30 is calculated from: (1) the expiration date of the shortness distutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise the issue of new matter (see NOTE below);  (b) They raise the issue of new matter (see NOTE below);  (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).  1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  3. Applicant's reply has overcome the following rejection(s): (a) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  3. The reproses of appeal, the proposed amendment(s): a) Will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  3. The affidavit or other evidence filed after a final	b) The period for reply expires on: (1) the mailing date of this Advisory no event, however, will the statutory period for reply expire later tha Examiner Note: If box 1 is checked, check either box (a) or (b). ONI MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).	Action, or (2) the date set forth n SIX MONTHS from the mailing Y CHECK BOX (b) WHEN THE	g date of the final rejection FIRST REPLY WAS FII	on. LED WITHIN TWO				
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a)  They raise new issues that would require further consideration and/or search (see NOTE below); (b)  They raise the issue of new matter (see NOTE below); (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d)  They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:  (See 37 CFR 1.116 and 41.33(a)).  4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5.  Applicant's reply has overcome the following rejection(s):  would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7.  For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) is (or will be) as follows:  Claim(s) objected to:  Claim(s) is (or will be) as follows:  Claim(s) withdrawn from consideration:  Market of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9.  The affidavit or other evidence filed after a final action, but before or on the date of filing a brief, will not be entered because the affidavit or other evidence filed after a final action, but before or on the date of filing a brief, will not be entered beca	have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
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(a)								
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(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:		n for appeal by materially red	ducing or simplifying th	ne issues for				
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AFFIDAVIT OR OTHER EVIDENCE  8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  13. Other:  14. (PTO/SB/08) Paper No(s).  15. (PTO/SB/08) Paper No(s).  16. (PTO/SB/08) Paper No(s).  17. (Pavid K. O'Dell/) /Rita Desai/	Claim(s) objected to: Claim(s) rejected:							
<ul> <li>8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</li> <li>9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</li> <li>10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. <a href="REQUEST FOR RECONSIDERATION/OTHER">REQUEST FOR RECONSIDERATION/OTHER</a></li> <li>11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12.  Note the attached Information <i>Disclosure Statement</i>(s). (PTO/SB/08) Paper No(s)</li></ul>								
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REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  13. Other:  The claims as presented fail to overcome the rejections of /David K. O'Dell/ /Rita Desai/	9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).							
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13. Other:  The claims as presented fail to overcome the rejections of /David K. O'Dell/ /Rita Desai/	11. The request for reconsideration has been considered but does	NOT place the application ir	condition for allowan	ce because:				
7,500,700,700,500,700,700,700,700,700,70		SB/08) Paper No(s)						
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